

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARTA KORDAS- CZAJKOWSKI
2476 Azure Coast Dr
La Jolla, CA 92037

Registered Nurse License No. **380634**

Respondent

Case No. 2010-498

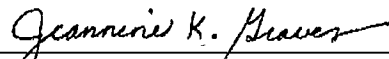
OAH No. 2010070743

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **June 17, 2011**.

IT IS SO ORDERED **May 19, 2011**.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES LEDAKIS
Supervising Deputy Attorney General
3 WILLIAM A. BUESS
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2010-498

12 **MARTA KORDAS-CZAJKOWSKI**
13 **2476 Azure Coast Dr.**
14 **La Jolla, CA 92037**

OAH No. 2010070743
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Registered Nurse No. 380634**

16 Respondent.
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18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
22 which will be submitted to the Board for approval and adoption as the final disposition of the
23 Accusation.

24 **PARTIES**

25 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
26 Registered Nursing. She brought this action solely in her official capacity and is represented in
27 this matter by Kamala D. Harris, Attorney General of the State of California, by William A.
28 Buess, Deputy Attorney General.

2. Respondent Marta Kordas-Czajkowski (Respondent) aka Marta Kordas is represented in this proceeding by attorney Samuel Eugene Spital, Esq., whose address is: 8880 Rio San Diego Drive, Suite 800 San Diego, CA 92108-1642.

3. On or about December 31, 1984, the Board of Registered Nursing issued Registered Nurse No. 380634 to Marta Kordas-Czajkowski (Respondent). The Registered Nurse was in full force and effect at all times relevant to the charges brought in Accusation No. 2010-498 and will expire on September 30, 2012, unless renewed.

JURISDICTION

4. Accusation No. 2010-498 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 13, 2010. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2010-498 is attached as exhibit A and incorporated herein by reference.

ADVICE AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2010-498. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right, except her right to be represented by counsel at her own expense, set forth above.

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13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse No. 380634 issued to Respondent Marta Kordas-Czajkowski (Respondent) aka Marta Kordas is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

1 **Criminal Court Orders:** If Respondent is under criminal court orders, including
2 probation or parole, and the order is violated, this shall be deemed a violation of these probation
3 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

4 2. **Comply with the Board's Probation Program.** Respondent shall fully
5 comply with the conditions of the Probation Program established by the Board and cooperate with
6 representatives of the Board in its monitoring and investigation of the Respondent's compliance
7 with the Board's Probation Program. Respondent shall inform the Board in writing within no
8 more than 15 days of any address change and shall at all times maintain an active, current license
9 status with the Board, including during any period of suspension.

10 Upon successful completion of probation, Respondent's license shall be fully restored.

11 3. **Report in Person.** Respondent, during the period of probation, shall
12 appear in person at interviews/meetings as directed by the Board or its designated representatives.

13 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
14 or practice as a registered nurse outside of California shall not apply toward a reduction of this
15 probation time period. Respondent's probation is tolled, if and when she resides outside of
16 California. Respondent must provide written notice to the Board within 15 days of any change of
17 residency or practice outside the state, and within 30 days prior to re-establishing residency or
18 returning to practice in this state.

19 Respondent shall provide a list of all states and territories where she has ever been licensed
20 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
21 information regarding the status of each license and any changes in such license status during the
22 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
23 license during the term of probation.

24 5. **Submit Written Reports.** Respondent, during the period of probation,
25 shall submit or cause to be submitted such written reports/declarations and verification of actions
26 under penalty of perjury, as required by the Board. These reports/declarations shall contain
27 statements relative to Respondent's compliance with all the conditions of the Board's Probation
28 Program. Respondent shall immediately execute all release of information forms as may be

1 required by the Board or its representatives.

2 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
3 state and territory in which she has a registered nurse license.

4 **6. Function as a Registered Nurse.** Respondent, during the period of
5 probation, shall engage in the practice of registered nursing in California for a minimum of 24
6 hours per week for 6 consecutive months or as determined by the Board.

7 For purposes of compliance with the section, "engage in the practice of registered nursing"
8 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
9 non-direct patient care position that requires licensure as a registered nurse.

10 The Board may require that advanced practice nurses engage in advanced practice nursing
11 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

12 If Respondent has not complied with this condition during the probationary term, and
13 Respondent has presented sufficient documentation of her good faith efforts to comply with this
14 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
15 extension of Respondent's probation period up to one year without further hearing in order to
16 comply with this condition. During the one year extension, all original conditions of probation
17 shall apply.

18 **7. Employment Approval and Reporting Requirements.** Respondent shall
19 obtain prior approval from the Board before commencing or continuing any employment, paid or
20 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
21 performance evaluations and other employment related reports as a registered nurse upon request
22 of the Board.

23 Respondent shall provide a copy of this Decision to her employer and immediate
24 supervisors prior to commencement of any nursing or other health care related employment.

25 In addition to the above, Respondent shall notify the Board in writing within seventy-two
26 (72) hours after she obtains any nursing or other health care related employment. Respondent
27 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
28 separated, regardless of cause, from any nursing, or other health care related employment with a

1 full explanation of the circumstances surrounding the termination or separation.

2 8. **Supervision.** Respondent shall obtain prior approval from the Board
3 regarding Respondent's level of supervision and/or collaboration before commencing or
4 continuing any employment as a registered nurse, or education and training that includes patient
5 care.

6 Respondent shall practice only under the direct supervision of a registered nurse in good
7 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
8 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
9 approved.

10 Respondent's level of supervision and/or collaboration may include, but is not limited to the
11 following:

12 (a) Maximum - The individual providing supervision and/or collaboration is present in
13 the patient care area or in any other work setting at all times.

14 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
15 care unit or in any other work setting at least half of the hours Respondent works.

16 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
17 person communication with Respondent at least twice during each shift worked.

18 (d) Home Health Care - If Respondent is approved to work in the home health care
19 setting, the individual providing supervision and/or collaboration shall have person-to-person
20 communication with Respondent as required by the Board each work day. Respondent shall
21 maintain telephone or other telecommunication contact with the individual providing supervision
22 and/or collaboration as required by the Board during each work day. The individual providing
23 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
24 patients' homes visited by Respondent with or without Respondent present.

25 9. **Employment Limitations.** Respondent shall not work for a nurse's
26 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
27 traveling nurse, or for an in-house nursing pool.

28 Respondent shall not work for a licensed home health agency as a visiting nurse unless the

1 registered nursing supervision and other protections for home visits have been approved by the
2 Board. Respondent shall not work in any other registered nursing occupation where home visits
3 are required.

4 Respondent shall not work in any health care setting as a supervisor of registered nurses.
5 The Board may additionally restrict Respondent from supervising licensed vocational nurses
6 and/or unlicensed assistive personnel on a case-by-case basis.

7 Respondent shall not work as a faculty member in an approved school of nursing or as an
8 instructor in a Board approved continuing education program.

9 Respondent shall work only on a regularly assigned, identified and predetermined
10 worksite(s) and shall not work in a float capacity.

11 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
12 request documentation to determine whether there should be restrictions on the hours of work.

13 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
14 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
15 than six months prior to the end of her probationary term.

16 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
17 Respondent shall submit to the Board the original transcripts or certificates of completion for the
18 above required course(s). The Board shall return the original documents to Respondent after
19 photocopying them for its records.

20 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
21 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
22 amount of \$11,983.20. Respondent shall be permitted to pay these costs in a payment plan
23 approved by the Board, with payments to be completed no later than three months prior to the end
24 of the probation term.

25 If Respondent has not complied with this condition during the probationary term; and
26 Respondent has presented sufficient documentation of her good faith efforts to comply with this
27 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
28 extension of Respondent's probation period up to one year without further hearing in order to

1 comply with this condition. During the one year extension, all original conditions of probation
2 will apply.

3 **12. Violation of Probation.** If Respondent violates the conditions of her
4 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside
5 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

6 If during the period of probation, an accusation or petition to revoke probation has been
7 filed against Respondent's license or the Attorney General's Office has been requested to prepare
8 an accusation or petition to revoke probation against Respondent's license, the probationary
9 period shall automatically be extended and shall not expire until the accusation or petition has
10 been acted upon by the Board.

11 **13. License Surrender.** During Respondent's term of probation, if she ceases
12 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
13 probation, Respondent may surrender her license to the Board. The Board reserves the right to
14 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
15 take any other action deemed appropriate and reasonable under the circumstances, without further
16 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
17 longer be subject to the conditions of probation.

18 Surrender of Respondent's license shall be considered a disciplinary action and shall
19 become a part of Respondent's license history with the Board. A registered nurse whose license
20 has been surrendered may petition the Board for reinstatement no sooner than the following
21 minimum periods from the effective date of the disciplinary decision:

22 (1) Two years for reinstatement of a license that was surrendered for any reason other
23 than a mental or physical illness; or

24 (2) One year for a license surrendered for a mental or physical illness.

25 **14. Physical Examination.** Within 45 days of the effective date of this
26 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
27 physician assistant, who is approved by the Board before the assessment is performed, submit an
28 assessment of the Respondent's physical condition and capability to perform the duties of a

1 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
2 medically determined, a recommended treatment program will be instituted and followed by the
3 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
4 to the Board on forms provided by the Board.

5 If Respondent is determined to be unable to practice safely as a registered nurse, the
6 licensed physician, nurse practitioner, or physician assistant making this determination shall
7 immediately notify the Board and Respondent by telephone, and the Board shall request that the
8 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
9 immediately cease practice and shall not resume practice until notified by the Board. During this
10 period of suspension, Respondent shall not engage in any practice for which a license issued by
11 the Board is required until the Board has notified Respondent that a medical determination
12 permits Respondent to resume practice. This period of suspension will not apply to the reduction
13 of this probationary time period.

14 If Respondent fails to have the above assessment submitted to the Board within the 45-day
15 requirement, Respondent shall immediately cease practice and shall not resume practice until
16 notified by the Board. This period of suspension will not apply to the reduction of this
17 probationary time period. The Board may waive or postpone this suspension only if significant,
18 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
19 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
20 Only one such waiver or extension may be permitted.

21 **15. Mental Health Examination.** Respondent shall, within 45 days of the
22 effective date of this Decision, have a mental health examination including psychological testing
23 as appropriate to determine her capability to perform the duties of a registered nurse. The
24 examination will be performed by a psychiatrist, psychologist or other licensed mental health
25 practitioner approved by the Board. The examining mental health practitioner will submit a
26 written report of that assessment and recommendations to the Board. All costs are the
27 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
28 result of the mental health examination will be instituted and followed by Respondent.

1 If Respondent is determined to be unable to practice safely as a registered nurse, the
2 licensed mental health care practitioner making this determination shall immediately notify the
3 Board and Respondent by telephone, and the Board shall request that the Attorney General's
4 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
5 practice and may not resume practice until notified by the Board. During this period of
6 suspension, Respondent shall not engage in any practice for which a license issued by the Board
7 is required, until the Board has notified Respondent that a mental health determination permits
8 Respondent to resume practice. This period of suspension will not apply to the reduction of this
9 probationary time period.

10 If Respondent fails to have the above assessment submitted to the Board within the 45-day
11 requirement, Respondent shall immediately cease practice and shall not resume practice until
12 notified by the Board. This period of suspension will not apply to the reduction of this
13 probationary time period. The Board may waive or postpone this suspension only if significant,
14 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
15 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
16 Only one such waiver or extension may be permitted.

17 **16. Rule-Out Substance Abuse Assessment.** If the examiner conducting the
18 physical and/or mental health examination determines that the Respondent is dependent upon
19 drugs or alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or
20 alcohol dependence in remission), that might reasonably affect the safe practice of nursing, then
21 the Respondent must further comply with the following additional terms and conditions of
22 probation.

23 **17. Participate in Treatment/Rehabilitation Program for Chemical**
24 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
25 period or shall have successfully completed prior to commencement of probation a Board-
26 approved treatment/rehabilitation program of at least six months duration. As required, reports
27 shall be submitted by the program on forms provided by the Board. If Respondent has not
28 completed a Board-approved treatment/rehabilitation program prior to commencement of

1 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
2 a program. If a program is not successfully completed within the first nine months of probation,
3 the Board shall consider Respondent in violation of probation.

4 Based on Board recommendation, each week Respondent shall be required to attend at least
5 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
6 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
7 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
8 added. Respondent shall submit dated and signed documentation confirming such attendance to
9 the Board during the entire period of probation. Respondent shall continue with the recovery plan
10 recommended by the treatment/rehabilitation program or a licensed mental health examiner
11 and/or other ongoing recovery groups.

12 18. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
13 shall completely abstain from the possession, injection or consumption by any route of all
14 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
15 the same are ordered by a health care professional legally authorized to do so as part of
16 documented medical treatment. Respondent shall have sent to the Board, in writing and within
17 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
18 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
19 medication will no longer be required, and the effect on the recovery plan, if appropriate.

20 Respondent shall identify for the Board a single physician, nurse practitioner or physician
21 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
22 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
23 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
24 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
25 considered addictive have been prescribed, the report shall identify a program for the time limited
26 use of any such substances.

27 The Board may require the single coordinating physician, nurse practitioner, or physician
28 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive

1 medicine.

2 19. **Submit to Tests and Samples.** Respondent, at her expense, shall
3 participate in a random, biological fluid testing or a drug screening program which the Board
4 approves. The length of time and frequency will be subject to approval by the Board.
5 Respondent is responsible for keeping the Board informed of Respondent's current telephone
6 number at all times. Respondent shall also ensure that messages may be left at the telephone
7 number when she is not available and ensure that reports are submitted directly by the testing
8 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
9 to the Board by the program and Respondent shall be considered in violation of probation.

10 In addition, Respondent, at any time during the period of probation, shall fully cooperate
11 with the Board or any of its representatives, and shall, when requested, submit to such tests and
12 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
13 hypnotics, dangerous drugs, or other controlled substances.

14 If Respondent has a positive drug screen for any substance not legally authorized and not
15 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
16 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
17 practice pending the final decision on the petition to revoke probation or the accusation. This
18 period of suspension will not apply to the reduction of this probationary time period.

19 If Respondent fails to participate in a random, biological fluid testing or drug screening
20 program within the specified time frame, Respondent shall immediately cease practice and shall
21 not resume practice until notified by the Board. After taking into account documented evidence
22 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
23 suspend Respondent from practice pending the final decision on the petition to revoke probation
24 or the accusation. This period of suspension will not apply to the reduction of this probationary
25 time period.

26 20. **Therapy or Counseling Program.** Respondent, at her expense, shall
27 participate in an on-going counseling program until such time as the Board releases her from this
28 requirement and only upon the recommendation of the counselor. Written progress reports from

1 the counselor will be required at various intervals.

2 **ACCEPTANCE**

3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Samuel Spital, Esq. I understand the stipulation and the effect it
5 will have on my Registered Nurse. I enter into this Stipulated Settlement and Disciplinary Order
6 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
7 Board of Registered Nursing.

8
9 DATED: 3-2-11 Marta Kordas-Czajkowski
10 MARTA KORDAS-CZAJKOWSKI aka MARTA
11 KORDAS
Respondent

12 I have read and fully discussed with Respondent Marta Kordas-Czajkowski aka Marta
13 Kordas the terms and conditions and other matters contained in the above Stipulated Settlement
14 and Disciplinary Order. I approve its form and content.

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16 DATED: 3/8/11 Samuel Spital, Esq.
17 Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: March 15, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES LEDAKIS
Supervising Deputy Attorney General


WILLIAM A. BUESS
Deputy Attorney General
Attorneys for Complainant

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80470208.doc

Exhibit A

Accusation No. 2008 01 0071

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Attorney General of California
2 JAMES LEDAKIS
Supervising Deputy Attorney General
3 WILLIAM A. BUESS
Deputy Attorney General
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Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.:

2010-498

12 **MARTA KORDAS-CZAJKOWSKI**
13 **2476 Azure Coast Dr.**
La Jolla, CA 92037
14 **Registered Nurse License No. 380634**

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about December 31, 1984, the Board of Registered Nursing issued Registered
23 Nurse License Number 380634 to Marta Kordas-Czajkowski (Respondent). The Registered
24 Nurse was in full force and effect at all times relevant to the charges brought herein and will
25 expire on September 30, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118 of the Code states in pertinent part:

"... (b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

"(c) As used in this section, 'board' includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,' 'registration,' and 'permit.'"

5. Section 2750 of the Code states:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used in this article, "license" includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [the Administrative Procedure Act], and the board shall have all the powers granted therein."

6. Section 2764 of the Code states:

"The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the

1 board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding
2 against such license, or to render a decision suspending or revoking such license."

3 STATUTORY PROVISIONS

4 7. Section 2761 states in pertinent part:

5 "The board may take disciplinary action against a certified or licensed nurse or deny an
6 application for a certificate or license for any of the following:

7 "(a) Unprofessional conduct,..."

8 8. Section 2762 states in pertinent part:

9 "In addition to other acts constituting unprofessional conduct within the meaning of this
10 chapter it is unprofessional conduct for a person licensed under this chapter to do any of the
11 following:

12 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
13 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
14 administer to another, any controlled substance as defined in Division 10 (commencing with
15 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
16 defined in Section 4022."

17 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
18 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
19 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
20 himself or herself, any other person, or the public or to the extent that such use impairs his or her
21 ability to conduct with safety to the public the practice authorized by his or her license."

22 "... (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in
23 any hospital, patient, or other record pertaining to the substances described in subdivision (a) of
24 this section."

25 9. Section 4060 states in pertinent part:

26 "No person shall possess any controlled substance, except that furnished to a person upon
27 the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug
28

1 order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner
2 pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1.”

3 10. Section 4324 states:

4 “(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,
5 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any
6 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the
7 state prison, or by imprisonment in the county jail for not more than one year.

8 “(b) Every person who has in his or her possession any drugs secured by a forged
9 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the
10 county jail for not more than one year.”

11 11. California Health and Safety Code section 11170 states:

12 “No person shall prescribe, administer, or furnish a controlled substance for himself.”

13 12. California Health and Safety Code section 11173 states in pertinent part:

14 “(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt
15 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
16 misrepresentation, or subterfuge; or (2) be the concealment of a material fact.”

17 **DRUG DEFINITION**

18 13. “Ambien” is a Schedule IV controlled substance pursuant to Health and Safety Code
19 Section 11057(d) (32) and a dangerous drug under Business and Professions Code Section 4022.
20 Ambien is a brand name for the generic drug Zolpidem which is used to treat insomnia.

21 **COST RECOVERY**

22 14. Business and Professions Code section 125.3 states in pertinent part that:

23 “(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary
24 proceeding before any board within the department or before the Osteopathic Medical Board
25 upon request of the entity bringing the proceedings, the administrative law judge may direct a
26 licensee found to have committed a violation or violations of the licensing act to pay a sum not
27 to exceed the reasonable costs of the investigation and enforcement of the case.”

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1 "... (c) A certified copy of the actual costs, or a good faith estimate of costs where actual
2 costs are not available, signed by the entity bringing the proceeding or its designated
3 representative shall be prima facie evidence of reasonable costs of investigation and prosecution
4 of the case. The costs shall include the amount of investigative and enforcement costs up to the
5 date of the hearing, including, but not limited to, charges imposed by the Attorney General."

6 "... (e) If an order for recovery of costs is made and timely payment is not made as directed
7 in the board's decision, the board may enforce the order for repayment in any appropriate court.
8 This right of enforcement shall be in addition to any other rights the board may have as to any
9 licentiate to pay costs.

10 **REGULATORY PROVISIONS**

11 15. California Code of Regulations, title 16, section 1444, states:

12 "A conviction or act shall be considered to be substantially related to the qualifications,
13 functions or duties of a registered nurse if to a substantial degree it evidences the present or
14 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
15 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

16 "... (c) Theft, dishonesty, fraud, or deceit.

17 **FIRST CAUSE FOR DISCIPLINE**

18 (Unprofessional Conduct: Obtain, Possess or Prescribe a Controlled Substance for
19 Self Administering)

20 16. Respondent is subject to disciplinary action under sections 2761 and 2762(a) and (b)
21 in that between January 2007 and August 2007, Respondent, while employed as a registered
22 nurse at Alvarado Hospital, did knowingly and willfully obtain, possess or prescribe for the
23 purpose of administering to herself, a controlled substance, Ambien, a Schedule IV substance as
24 defined in Health and Safety Code section 11057, without authorization. The circumstances are
25 as follows:

26 17. On or about January 3, 2007, Respondent telephoned in or caused a telephone
27 prescription or refill to be called in for 20 tablets of Ambien to Alvarado Hospital Pharmacy for
28 herself under the name and DEA number of Dr. P.W.

1 18. On or about January 8, 2007, Respondent telephoned in or caused a telephone
2 prescription or refill to be called in for 20 tablets of Ambien to Alvarado Hospital Pharmacy for
3 herself under the name and DEA number of Dr. P.W.

4 19. On or about January 22, 2007, Respondent telephoned in or caused a telephone
5 prescription or refill to be called in for 20 tablets of Ambien to Alvarado Hospital Pharmacy for
6 herself under the name and DEA number of Dr. P.W.

7 20. On or about February 6, 2007, Respondent telephoned in or caused a telephone
8 prescription or refill to be called in for 20 tablets of Ambien to Alvarado Hospital Pharmacy for
9 herself under the name and DEA number of Dr. P.W.

10 21. On or about February 14, 2007, Respondent telephoned in or caused a telephone
11 prescription or refill to be called in for 7 tablets of Ambien CR to Alvarado Hospital Pharmacy
12 for herself under the name and DEA number of Dr. L.R.

13 22. On or about May 14, 2007, Respondent telephoned in or caused a telephone
14 prescription or refill to be called in for 5 tablets of Ambien to the Vons Pharmacy #2323 located
15 at 7544 Girard Avenue in La Jolla, CA, for herself under the name and DEA number of Dr. C.G.

16 23. On or about June 5, 2007, Respondent telephoned in or caused a telephone
17 prescription or refill to be called in for 10 tablets of Zolpidem to Costco Pharmacy #401 located
18 at 4605 Moreno Blvd., in San Diego, CA, for herself under the name and DEA number of Dr. S.

19 24. On or about June 9, 2007, Respondent telephoned in or caused a telephone
20 prescription or refill to be called in for 10 tablets of Zolpidem to Costco Pharmacy #401 located
21 at 4605 Moreno Blvd., in San Diego, CA, for herself under the name and DEA number of Dr. S.

22 25. On or about June 19, 2007, Respondent telephoned in or caused a telephone
23 prescription or refill to be called in for 10 tablets of Zolpidem to Costco Pharmacy #401 located
24 at 4605 Moreno Blvd., in San Diego, CA, for herself under the name and DEA number of Dr. S.

25 26. On or about June 25, 2007, Respondent telephoned in or caused a telephone
26 prescription or refill to be called in for 10 tablets of Zolpidem to Costco Pharmacy #401 located
27 at 4605 Moreno Blvd., in San Diego, CA, for herself under the name and DEA number of Dr. S.

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1 27. On or about June 30, 2007, Respondent telephoned in or caused a telephone
2 prescription or refill to be called in for 10 tablets of Zolpidem to CostCo Pharmacy #401 located
3 at 4605 Moreno Blvd., in San Diego, CA, for herself under the name and DEA number of Dr. S.

4 28. On or about July 12, 2007, respondent telephoned in or caused a telephone
5 prescription or refill to be called in for 30 tablets of Ambien to Longs Drug Store #0010, located
6 at 3450 College Ave., in San Diego, CA, for herself under the name and DEA number of Dr. R.C.

7 29. On or about July 27, 2007, Respondent telephoned in or caused a telephone
8 prescription or refill to be called in for 30 tablets of Zolpidem to the Alvarado Hospital Pharmacy
9 for herself under the name and DEA number of Dr. R.C.

10 30. On or about July 30, 2007, Respondent telephoned in or caused a telephone
11 prescription or refill to be called in for 30 tablets of Zolpidem to the Alvarado Hospital Pharmacy
12 for herself under the name and DEA number of Dr. R.C.

13 31. On or about August 6, 2007, Respondent telephoned in or caused a telephone
14 prescription or refill to be called in for 30 tablets of Zolpidem to the Alvarado Hospital Pharmacy
15 for herself under the name and DEA number of Dr. R.C.

16 **SECOND CAUSE FOR DISCIPLINE**

17 (Unprofessional Conduct: Possession of Controlled Substance)

18 32. Respondent is subject to disciplinary action under section 4060 in that Respondent
19 while employed as a registered nurse at Alvarado Hospital in 2007, did knowingly and willfully
20 possessed a controlled substance, Ambien or Zolpidem, without a proper prescription under the
21 circumstances as fully set forth herein above in paragraphs 16 through and including 31 and
22 incorporated herein by reference.

23 **THIRD CAUSE FOR DISCIPLINE**

24 (Prescribe, Administer or Furnish a Controlled Substance for Herself)

25 33. Respondent is subject to disciplinary action under section 2762(a) and (b), section
26 4324 and section 11170 of the California Health and Safety Code in that Respondent while
27 employed as a registered nurse at Alvarado Hospital in 2007, did knowingly and willfully
28 prescribe, administer or furnish a controlled substance, Ambien or Zolpidem, for herself as fully

1 set forth herein above in paragraphs 17 through and including 31 and incorporated herein by
2 reference.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 (Obtain Controlled Substance by Fraud, Deceit, Misrepresentation)

5 34. Respondent is subject to disciplinary action under section 2762(a) and (b), section
6 4324 and section 11173 of the California Health and Safety Code in that Respondent while
7 employed as a registered nurse at Alvarado Hospital in 2007, did knowingly and willfully use
8 false and unauthorized prescriptions to obtain a controlled substance, Ambien or Zolpidem, for
9 herself through fraud, deceit or misrepresentation as fully set forth herein above in paragraphs 17
10 through and including 31 and incorporated herein by reference.

11 **DISCIPLINARY CONSIDERATIONS**

12 35. On or about March 29, 2007, Respondent while employed as a registered nurse at
13 Alvarado Hospital in 2007, telephoned in or caused a telephone prescription to be called in for 15
14 tablets of Lunesta to Alvarado Hospital Pharmacy for herself under the name and DEA number of
15 Dr. T.M.

16 36. On or about April 6, 2007, Respondent while employed as a registered nurse at
17 Alvarado Hospital in 2007 telephoned in or caused a telephone prescription to be called in for 15
18 tablets of Lunesta to Alvarado Hospital Pharmacy for herself under the name and DEA number of
19 Dr. T.M.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 380634, issued to Marta
24 Kordas-Czajkowski.

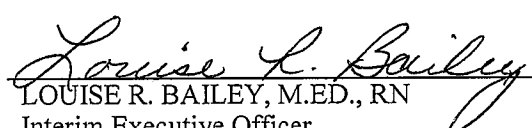
25 2. Ordering Marta Kordas-Czajkowski to pay the Board of Registered Nursing the
26 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
27 Professions Code section 125.3.

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3. Taking such other and further action as deemed necessary and proper.

DATED: 4/13/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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